IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Fitzpatrick et al.   Art Unit 3622
Serial No. 09/840,648
Filed 04/23/2001
Confirmation No. 5040
For METHOD AND SYSTEM FOR ELECTRONICALLY SELECTING, MODIFYING, AND
OPERATING A MOTIVATION OR RECOGNITION PROGRAM
Examiner John W. Van Bramer

AMENDED APPEAL BRIEF

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                                                            PATENT

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Examiner John W. Van Bramer

October 21, 2008 February 27, 2009

AMENDED APPEAL BRIEF

This is an appeal from the final rejection of the claims of the above-referenced

application made in the Final Office action dated **June 27, 2007.** A Notice of Appeal was filed

on **October 26, 2007.** A notice of a non-compliant appeal brief was dated June 3, 2008 was

received by Applicant. An amended appeal brief [[was]] dated July 3, 2008 was submitted by

Applicant. A second notice of a non-compliant appeal brief dated September 23, 2008 was

received by Applicant. An amended appeal brief dated October 23, 2008 was submitted by

Applicant. A third notice of a non-compliant appeal brief dated January 28, 2009 was received

by Applicant.

I.   **REAL PARTY IN INTEREST**

The real party in interest in connection with the present appeal is Maritz Inc. of 1375

North Highway Drive, Fenton, Missouri 63099, a corporation of the state of Missouri, owner of

100 percent interest in the pending application.

II.   **RELATED APPEALS AND INTERFERENCES**

Appellant is unaware of any pending appeals or interferences which may be related to,

directly affect or be directly affected by, or have a bearing on, the Board's decision in the

pending appeal.

III.   STATUS OF CLAIMS

Claims 1-7, 15, 24, 39, 52, 53, 55, 60 and 61, as set forth in the Claims Appendix stand rejected. Claims 8-14, 16-23, 25-38, 40-51, ~~and~~ 54 <u>and 56–59</u> have been canceled.

The rejection of independent claims 1, 24, 55 and 61 are being appealed and the rejection of dependent claims 2 and 39 are being appealed. The rejection of dependent claims 3-7, 15, 52, 53, and 60 are being appealed based on their dependency from the independent claims. If claim 1 is allowed, claims 3-7, 15, 52 should be allowed based on dependency from claim 1. If claim 24 is allowed, claims 53, 60 should be allowed based on dependency from claim 24.

IV.   STATUS OF AMENDMENTS

Amendment E was filed after final and entered by the Examiner. Amendment E canceled claims 56-59.

Amendment F was filed after filing the notice of appeal and has not been entered by the Examiner. Amendment F amends claims 55 and 61 to provide antecedent basis for the first modified program and the second modified program.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The following summary correlates claim elements to embodiments described in the application specification, but does not in any manner limit claim interpretation. Rather, the following summary is provided only to facilitate the Board's understanding of the subject matter of this appeal.

Brief Overview of Claim 1:

Independent claim 1 is directed to a method for allowing a first customer to create an individual, modified motivation or recognition first program. (Application, page 9, line 30 - page 10, line 2; FIG. 1, reference character 126). The method also allows a second customer to create an individual, modified motivation or recognition second program having second participants. (Application, page 9, line 30 - page 10, line 2; FIG. 1, reference character 126). Both the modified first program and the modified second program are executed by the same program processor. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Summary of Claim 1:

The first program permits the first participants to access the first program via first participant processors and to earn awards through the first program on the basis of the first participants' performance. (Application, page 10, lines 14-17; FIG. 1, reference character 120). The first program of the first customer operates according to preferences selected by the first customer. (Application, page 12, lines 30-33).

The second program permits the second participants to access the second program via second participant processors and to earn awards through the second program on the basis of the second participants' performance. (Application, page 10, lines 14-17; FIG. 1, reference character 120). The second program of the second customer operates according to preferences selected by the second customer. (Application, page 12, lines 30-33).

The first customer is allowed to electronically access via a first customer processor a browsable catalog of predefined programs stored in a storage device connected to a program processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The first customer is allowed to electronically select via the first customer processor a first one of the predefined programs stored in the storage device. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The first customer is allowed to electronically modify via the first customer processor at least one component of the selected first predefined program. (Application, page 11, lines 8-12; FIG. 5, reference character 505). The first customer is allowed to electronically store via the first customer processor the modified first program in the storage device for access by the first customer. (Application, page 11, lines 8-12; FIG. 5, reference character 506).

The second customer is allowed to electronically access via a second customer processor the browsable catalog of predefined programs stored in the storage device connected to the program processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The second customer is allowed to electronically select via the second customer processor a second one of the predefined programs stored in the storage device. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The second customer is allowed to electronically modify via the second customer processor at least one component of the selected second predefined program. (Application, page 11, lines 8-12; FIG. 5, reference character 505). The second customer is allowed to electronically store via the second customer processor the modified

second program in the storage device for access by the second customer. (Application, page 11, lines 8-12; FIG. 5, reference character 506).

The first customer is allowed to operate the modified first program via the program processor, and the second customer is allowed to operate the modified second program via the program processor. (Application, page 13, lines 1-10; FIG. 1, reference character 102). The first and second participant processors and the first and second customer processors are remote from the program processor and remote from the storage device connected to the program processor. (Application, page 12, lines 4-11; FIG. 1, reference characters 112, 108, 104). The first customer's participants are provided with access via the first participant processors to the modified first program stored in the storage device, and the second customer's participants are provided with access via the second participant processors to the modified second program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified first and second programs are executed by the program processor. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Brief Overview of Claim 24:

Independent claim 24 is directed to a system for allowing multiple customers to each create an individual, modified motivation or recognition program via a customer processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202).   Each program is associated with a selected business challenge. (Application, page 18, line 34-page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). The modified programs of multiple customers are executed by the same program processor. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Summary of Claim 24:

Each program has participants and each program permits the participants to access their program via a participant processor and to earn awards through their program on the basis of the participants' performance. (Application, page 10, lines 14-17; FIG. 1, reference character 120). Each program of a particular customer operates according to preferences selected by the particular customer. (Application, page 12, lines 30-33).

The system comprises a storage device and a program processor. (FIG. 1, reference

characters 112, 108). The program processor is connected to the storage device. (FIG. 1, reference characters 112, 108). The storage device stores a program for controlling the program processor. (Application, page 11, lines 21-24; FIG. 1, reference character 112, 108). The program processor is operative with the program. (Application, page 11, lines 21-24; FIG. 1, reference character 112, 108). The participant processor and the customer processor are remote from the program processor and remote from the storage device. (Application, page 12, lines 4-11; FIG. 1, reference characters 112, 108, 104).

The program processor electronically provides each customer access to a browsable catalog of predefined programs stored in the storage device. (Application, page 10, lines 14-17; FIG. 1, reference character 110). Each program is associated with a business challenge. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). The program processor allows each customer to electronically select a business challenge. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). The predefined programs associated with the business challenge are presented to the customer and are designed to promote the selected business challenge. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410,412,414,416). The program processor allows each customer to electronically select one of the presented predefined programs stored in the storage device. (Application, page 10, lines 31-35; FIG. 3, reference character 202).

Additionally, the program processor allows each customer to modify at least one component of the selected predefined program. (Application, page 11, lines 8-12; FIG. 5, reference character 505). The program processor allows each customer to electronically store the modified program in the storage device for access by such customer. (Application, page 11, lines 8-12; FIG. 5, reference character 506). The program processor allows each customer to electronically create or review a proposal and/or invoice relating to the modified program. (Application, page 23, lines 14-17; FIG. 5, reference character 508). The program processor allows each customer to operate the modified program. (Application, page 13, lines 1-10; FIG. 1, reference character 102). And, the program processor provides each customer's participants with access to the modified program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified program is executed by the program processor. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Brief Overview of Claim 55:

Independent claim 55 is directed to a method for allowing multiple customers to each create an individual, modified motivation or recognition program having individualized rules structures. (Application, page 9, line 30 - page 10, line 2; FIG. 1, reference character 126, 120). The first customer and the second customer are allowed to each electronically select via their customer processor a rules structure of the selected predefined program. (Application, page 16, lines 13-29; FIG. 4, reference characters 406, 418, 420). The modified programs are executed by the same storage device. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Summary of Claim 55:

The programs of the multiple customers are supplied by a program supplier. (FIG. 1). Each program permits the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants' performance. (Application, page 9, line 31 - page 10, line 8; FIG. 1, reference character 126, 106, 120). Each program of a particular customer operating according to preferences selected by the particular customer. (Application, page 12, lines 30-33).

A first customer via a first customer processor and a second customer via a second customer processor are allowed to electronically access a browsable catalog of predefined programs stored in a storage device connected to a program processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The storage device and the program processor are remote from the customer processor and remote from the participant processor. (Application, page 12, lines 4-11; FIG. 1, reference characters 112, 108, 104). The first customer's access and program is independent of the second customer's access and program. (FIG. 1).

The first customer and the second customer are allowed to each electronically select one of the predefined programs stored in the storage device via their customer processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The first customer's selection is independent of the second customer's selection. The first customer and the second customer are allowed to each electronically select via their customer processor a rules structure of the selected predefined program. (Application, page 16, lines 13-29; FIG. 4, reference characters 406, 418, 420). The rules structure defines the manner in which awards are earned by

the first and second customer's participants. (Application, page 17, lines 5-6). The first customer's selection of the rules structure is independent of the second customer's selection of the rules structure.

The first customer is allowed to electronically store the first modified program in the storage device for access by the first customer via the first customer processor. (Application, page 11, lines 8-12; FIG. 5, reference character 506). The second customer is allowed to electronically store the second modified program in the storage device for access by the second customer via the second customer processor. (Application, page 11, lines 8-12; FIG. 5, reference character 506). The first customer is allowed to operate the first modified program via the first customer processor. (Application, page 13, lines 1-10; FIG. 1, reference character 102). The second customer is allowed to operate the second modified program via the second customer processor. (Application, page 13, lines 1-10; FIG. 1, reference character 102). The operation of the first modified program is independent of the second modified program. The first customer's participants are provided with access via their participant processor to the first modified program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified program is executed by the program processor, and the first customer's participants earn awards based on the rules structures of the first modified program. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

The second customer's participants are permitted with access via their participant processor to the second modified program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified program is executed by the program processor. The second customer's participants earn awards based on the rules structures of the second modified program. (Application, page 14, lines 11-17; FIG. 1, reference character 108). Access by the first customer's participants to the first modified program is independent of access by the second customer's participants to the second modified program.

Brief Overview of Claim 61:

Independent claim 61 is directed to a method for allowing multiple customers to each create an individual, modified motivation or recognition program having individualized rules structures. (Application, page 9, line 30 - page 10, line 2; FIG. 1, reference character 126, 120). Each program is associated with a selected business

challenge. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). The first customer and the second customer are allowed to each electronically select via their customer processor a rules structure of the selected predefined program. (Application, page 16, lines 13-29; FIG. 4, reference characters 406, 418, 420). The modified programs are executed by the same storage device. (Application, page 14, lines 11-17; FIG. 1, reference character 108).

Summary of Claim 61:

The programs of the multiple customers are supplied by a program supplier, each program permitting the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants' performance. (Application, page 9, line 31 - page 10, line 8; FIG. 1, reference character 126, 106, 120). Each program of a particular customer operates according to preferences selected by the particular customer. (Application, page 12, lines 30-33).

A first customer via a first customer processor and a second customer via a second customer processor are allowed to electronically select a business challenge from a plurality of business challenges. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). Each business challenge is associated with one or more predefined programs. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410, 412, 414, 416). The predefined programs associated with the business challenge are presented to the customer and are designed to promote the selected business challenge. (Application, page 18, line 34- page 19, line 2; FIG. 4, reference characters 410,412,414,416).

The predefined programs are stored in a storage device connected to a program processor. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The storage device and the program processor are remote from the customer processor and remote from the participant processor. (Application, page 12, lines 4-11; FIG. 1, reference characters 112, 108, 104). The first customer's access and program is independent of the second customer's access and program. The first customer and the second customer are allowed to each electronically select one of the presented predefined programs stored in the storage device via their customer processor. The first customer's selection is independent of the second customer's selection.

The first customer and the second customer are allowed to each electronically select via

their customer processor a rules structure of the selected predefined program. (Application, page 10, lines 31-35; FIG. 3, reference character 202). The rules structure defines the manner in which awards are earned by the first and second customer's participants. (Application, page 17, lines 5-6). The first customer's selection of the rules structure is independent of the second customer's selection of the rules structure. The first customer is allowed to electronically store the first modified program in the storage device for access by the first customer via the first customer processor. (Application, page 11, lines 8-12; FIG. 5, reference character 505). The second customer is allowed to electronically store the second modified program in the storage device for access by the second customer via the second customer processor. (Application, page 11, lines 8-12; FIG. 5, reference character 505).

The first customer is allowed to operate the first modified program via the first customer processor. (Application, page 13, lines 1-10; FIG. 1, reference character 102). The second customer is allowed to operate the second modified program via the second customer processor. (Application, page 13, lines 1-10; FIG. 1, reference character 102). The operation of the first modified program is independent of the second modified program.

The first customer's participants are provided with access via their participant processor to the first modified program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified program is executed by the program processor and the first customer's participants earn awards based on the rules structures of the first modified program. (Application, page 14, lines 11-17; FIG. 1, reference character 108). The second customer's participants are provided with access via their participant processor to the second modified program stored in the storage device. (Application, page 14, lines 11-17; FIG. 1, reference characters 120, 106, 112). The modified program is executed by the program processor and the second customer's participants earn awards based on the rules structures of the second modified program. (Application, page 14, lines 11-17; FIG. 1, reference character 108). Access by the first customer's participants to the first modified program is independent of access by the second customer's participants to the second modified program.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Appellant appeals the rejections of claims 1, 24, 55, and 61 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Number 6,061,660 (Eggleston). Claims 3-7, 15 and 52 depend from claim 1 and stand or fall with claim 1. Claims 53 and 60 depend from claim 24 and stand or fall with claim 24.

B. Appellant appeals the rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Eggleston et al. (U.S. Patent Number: 6,061,660) in view of Hoffman and Rogelberg "A guide to team incentive systems," Team Performance Management, vol. 4 no. 1, pp. 23, 1998 (Hoffman and Rogelberg). In addition, claim 2 depends from claim 1 and stands or falls with claim 1.

C. Appellant appeals the rejection of claim 39 under 35 U.S.C. 103(a) as being unpatentable over Eggleston et al. in view of Symons and Jacobs "A Total Quality Management-Based Incentive System Supporting Total Quality Management Implementation", Production and Operations Management, Vol. 4, No. 3, Summer 1995 (Symons and Jacobs). In addition, claim 39 depends from claim 1 and stands or falls with claim 1.

VII.   ARGUMENT

A. Rejection under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Number 6,061,660

A claim is anticipated only if each and every element as set forth in the claim is disclosed, either expressly or inherently in a single prior art reference.[1] Appellant submit that each and every element as set forth in the recited claims is not found, either expressly or inherently in the Eggleston reference. In particular, Eggleston *only* illustrates that each customer can download and operate their modified program via their processor and fails to disclose multiple programs by various sponsors on the same host, as recited by claims 1 and 24. In addition, Eggleston *only* illustrates the modification of eligibility rules and fails to disclose a

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[1] M.P.E.P. § 2131. *See also Schering Corp. v. Geneva Pharmaceuticals*, 339 F.3d 1373, 1379 (Fed. Cir. 2003) (citing *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987)).

selectable rules structure in combination with multiple programs on the same storage device and executed by the same program processor, as recited by claims 55 and 61.

Thus, the Eggleston reference does not anticipate the claims.

1. Summary of Eggleston

Eggleston teaches a method for providing incentive programs over a computer network. In particular, the incentive program is downloaded or transmitted to the sponsor for installation and operation at the sponsor's own site after the incentive program is purchased. (Eggleston, FIG. 10, reference character 368; FIG. 11, reference character 388; column 14, lines 50-53; column 19, lines 14-19; and column 19, lines 44-48). For example, Eggleston discloses "[w]hether the sponsor purchases a pre-packaged incentive program or chooses to build an incentive program, the completed incentive program is downloaded to the sponsor for installation on a web site of the sponsor." (Eggleston, column 14, lines 50-53). Eggleston teaches that once the incentive program has been downloaded and installed on the sponsor's own site, the sponsor provides a link to the host. (Eggleston, column 19, lines 20-21 and 49-50; column 30, lines 6-9). For example, at column 14, lines 53-56, Eggleston teaches "[t]he sponsor database is updated to reflect the presence of the new incentive program, and the sponsor site 194 is updated to include a link to the new incentive program." Next, the host system updates the consumer directory of the consumer site to link to the incentive program installed on the sponsor's own site. (Eggleston, column 15, line 66 - column 16, line 2; column 19, lines 49-52; column 26, lines 62-65) For example, Eggleston discloses "the host computer updates the consumer home page of the consumer site to reflect the presence of a new incentive program and a link to the new incentive program." (Eggleston, column 19, lines 26-29) In other words, Eggleston teaches that a sponsor (1) purchases incentive programs from the sponsor site of the host, (2) downloads the purchased program to the sponsor's own server, and (3) provides a link to the host, as a result, the consumer can access the incentive program on the sponsor's own web server from a HTML link in the consumer directory of the consumer site of the host.

2. Claims 1, 3-7, 15, 24, 52, 53, and 60

Claim 1 is directed to a method for a first customer and a second customer to create individual modified motivation or recognitions programs where each customer's participants

access their modified program stored in the same storage device connected to the program

processor and where the accessed programs are executed by the same program processor, and not

executing by the individual customer processors. Claim 24 is directed to a system for allowing

multiple customers to create individual modified motivation or recognitions programs where

each customer's participants access the modified program stored in the same storage device

connected to the program processor and executed by the same program processor, and not

executing by the individual customer processors.

Appellant submits that claims 1 and 24 are unanticipated by and patentable over

Eggleston in that Eggleston fails to disclose or teach:

> **allowing the first customer to operate the modified first program via the program processor, and allowing the second customer to operate the modified second program via the program processor, wherein the first and second participant processors and the first and second customer processors are remote from said program processor and remote from the storage device connected to the program processor**; and
> **providing the first customer's participants with access via the first participant processors to the modified first program stored in the storage device, and providing the second customer's participants with access via the second participant processors to the modified second program stored in the storage device, said modified first and second programs executed by the program processor**.
> (Appendix, claim 1 at lines 34-43).

> **a storage device; and**
> **a program processor ...operative ...:**
> > **to electronically provide to each customer access to a browsable catalog of predefined programs stored in the storage device, each program associated with a business challenge; ...**
> > **to allow each customer to electronically select one of the presented predefined programs stored in the storage device;**
> > **to allow each customer to modify at least one component of the selected predefined program;**
> > **to allow each customer to electronically store the modified program in the storage device for access by such customer; ...**
> > **said modified program executed by the program processor.**
> (Appendix, claim 24 at lines 81-101).

One advantage to the recited method and system over Eggleston is that the administrator

of the program processor is able to manage all programs of all customers via access to the

program processor. In contrast, in Eggleston, the administrator would be required to access each

customer processor to manage all programs of all customers. Thus, in the event that the

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administrator wants to make a change to all programs, according to the recited invention, the
change could be made by accessing the program processor instead of accessing each customer
processor.

**a. Contrary to Examiner's Arguments, Eggleston fails to disclose multiple programs
by various sponsors on the same host.**

In the Response to Arguments on page 20 of the final Office action, the Examiner asserts
that column 5, lines 46-55; column 10, lines 1-54; column 12, lines 39-48; column 14, lines 6-65;
column 17, lines 25-50; and column 32, lines 53-64 of Eggleston teach the incentive program of
various sponsors are stored and executed on the host machine. The Examiner also asserts that
column 6, lines 13-19; column 6, lines 31-46; column 6, line 53 through column 7 line 6; and
column7, line 54 through column 8, line 20; and column 12, lines 38-48 of Eggleston disclose
additional support and definitions that would allow one of ordinary skill to determine that the
remote host is able to operate the incentive program selected by the sponsor.

First, column 14, lines 6-65 teaches away from the Examiner's assertion by suggesting
purchasing and downloading of the program. For example, column 14, lines 50-53 indicates that
the host does not operate/execute the incentive program by disclosing "whether the sponsor
purchases a pre-packaged incentive program or chooses to build an incentive program, the
completed incentive program is **downloaded** to the sponsor for installation on a web site of the
sponsor" and that "the sponsor site is updated to include a link to the new incentive program."
(Emphasis added). And, column 14, lines 5-19 generally disclose a sponsor registering at the
sponsor site of the host. Column 14, lines 20-25 generally disclose that a registered sponsor may
provide links (e.g., a URL) to a pre-existing incentive program sites or purchase incentive
programs from the host. Lastly, column 14, lines 25-50 generally describe the process of
purchasing an incentive program from the host.

Second, the other references in Eggleston cited by the Examiner are silent as where the
operating/executing of the programs occurs. For example, column 5, lines 46-55 teach that the
present invention "permits sponsors to build, buy, store, modify, offer, track and administer
incentive programs", but not operating or executing the incentive program on the host machine.
The Examiner is using hindsight garnered from the claims to read into Eggleston that multiple
programs of multiple customers can be executed on the same host machine. Similarly, column

10, lines 1-54 teach a general client server model of distributed computing over the internet.
Column 12, lines 39-48 describes a consumer site which provides a directory of links to
incentive programs provided by the host system or provided by a third party, but fails to address
where the "provided" incentive programs are executed or operated. Column 17, lines 25-50
discloses a method for a sponsor to log into the sponsor site of the host. And, column 32, lines
53-64 standalone software may be used to create the incentive program and the code may be
stored in a database. But, the cited reference fails to disclose how or where the code is executed
or operated, only stored.

Third, the references in Eggleston which the Examiner cites do not provide additional
support that would allow one of ordinary skill to determine that the remote host is able to operate
the incentive program selected by the sponsor. Again, the references are silent with respect to
operation/execution of the incentive program. For example, column 6, lines 13-19 teaches that
sponsor may list incentive programs on an internet site, obtain incentive programs from the host,
build incentive programs using software of the host, associated prizes with incentive programs
offered through the listing of the site, and the sponsor may fulfill awards won by consumers.
Column 6, lines 31-46 generally discloses that consumers may participate in incentive programs
from a plurality of sponsors. Column 6, line 53 through Column 7, line 6 generally discloses the
process for generating an incentive program, but not operation or execution of the incentive
program. And, column 7, line 54 through column 8, line 20 generally defines the terms host and
sponsor, but does not address the operation or execution of an incentive program.

**b. Eggleston *only* illustrates that each customer can download and operate their
modified program via their processor.**

Eggleston teaches in detail five (5) embodiments where the program is downloaded or
mailed to the sponsor for installation at the sponsor's site and does not disclose a single
embodiment where the program is operated on the host computer. (See, (1) Fig. 10; Column 14,
lines 50-65; (2) Fig. 10; Column 19, lines 14-17; (3) Fig. 10; Column 19, lines 18-19; (4)
Column 29 line 67 - Column 30 line 9; and (5) Fig. 11; Column 32, lines 37-41.)

Notably, Eggleston does not teach or disclose any embodiments where the incentive
program purchased by a sponsor is installed or executed on the sponsor site of the host system or
elsewhere on the host system. In contrast, Eggleston repeatedly teaches that a purchased

incentive program is downloaded to the sponsor's own site and not the sponsor site located on the host system. When read in the light of the specification, Eggleston teaches that a sponsor (1) purchases incentive programs from the sponsor site of the host, (2) downloads the purchased program to the sponsor's own server, and (3) provides a link to the host so that the consumer can access the incentive program on the sponsor's own web server from a HTML link in the consumer directory of the consumer site of the host.

For example, at column 14, lines 50-53, Eggleston teaches "[w]hether the sponsor purchases a pre-packaged incentive program or chooses to build an incentive program, the completed incentive program is **downloaded** to the sponsor for installation on a web site of the sponsor." And, at column 19, lines 14-17, Eggleston teaches "at a step 368 the pre-packaged incentive program is transmitted to the sponsor by electronic mail or other file transfer protocol, so that the sponsor can **download** the incentive program on the sponsor's own server." And, at column 19, lines 17-19, Eggleston teaches "the code could be mailed on a disk with instructions for **downloading** into the sponsor's own site. (Also see FIG. 10.) At column 19, lines 44-48, Eggleston teaches "in a step 388 the incentive program that was built is transmitted to the sponsor by conventional means such as electronic mail, disk or file transfer, so that the sponsor can **install** the new incentive program **on the sponsor's server** for the sponsor's own site. (Also see FIG. 11.) Further, at column 29, line 67 to column 30, line 3, Eggleston discloses "[o]nce payment is confirmed, an application program sends a file containing the incentive program by electronic mail to the sponsor, who can then **download** the incentive program at the sponsor's site." Lastly, at column 32, lines 37- 41, Eggleston discloses "[o]nce payment is confirmed, an application program sends a file containing the incentive program by electronic mail to the sponsor, who can then **download** the incentive program at the sponsor's site." (Emphasis added.)

Eggleston consistent with the above then teaches that, after the incentive program has been downloaded and installed on the sponsor's own site, the sponsor provides a link to the host. (Eggleston, column 19, lines 20-21 and 49-50; column 30, lines 6-9). For example, at column 14, lines 53-56, Eggleston teaches "[t]he sponsor database is updated to reflect the presence of the new incentive program, and the sponsor site 194 is updated to include a link to the new incentive program."

Next, the host system updates the consumer directory of the consumer site to link to the incentive program installed on the sponsor's own site. (Eggleston, column 15, line 66 - column

16, line 2; column 19, lines 49-52; column 26, lines 62-65). For example, Eggleston discloses "the host computer updates the consumer home page of the consumer site to reflect the presence of a new incentive program and a link to the new incentive program." (Eggleston, column 19, lines 26-29).

In contrast, independent claims 1 and 24 recite the combination of multiple programs by various sponsors on the same host system.

Claim 1

Claim 1 recites:

> A method for allowing a first customer to create an individual, modified motivation or recognition first program having first participants..., said method for allowing a second customer to create an individual, modified motivation or recognition second program having second participants ..., said method comprising the steps of:
> …
> allowing the first customer to operate the modified first program via the program processor, and allowing the second customer to operate the modified second program via the program processor, wherein the first and second participant processors and the first and second customer processors are remote from said program processor and remote from the storage device connected to the program processor; and
> providing the first customer's participants with access via the first participant processors to the modified first program stored in the storage device, and providing the second customer's participants with access via the second participant processors to the modified second program stored in the storage device, **said modified first and second programs executed by the program processor**. (Appendix, lines 1-13 and 34-43, Emphasis added.)

None of the references in Eggleston, taken individually or in combination, discloses or suggests the combination of these elements so that the modified programs of different customers are executed by the same program processor. Without teaching this combination of elements, Eggleston cannot anticipate claim 1.

The present invention allows a first and second customer "to operate the modified program via the program processor, and wherein the participant processor and the customer processor are remote from said program processor and remote from the storage device," as recited in claim 1 and shown in FIG. 1 and 10. (Also see, specification page 12, lines 12-13; FIG. 10, page 29, line 21- page 31, line 14). Furthermore, the operating software used to operate the program remains local to the program processor. For example, the first and second customers are allowed to "personalize follow-up promotions 1010 and schedule and launch

communication cycles at 1012 by editing the content and frequency of any communications that are scheduled to be sent by the program processor." (FIG. 10, reference characters 1010, 1012; page 31, line 2-8).

Without a teaching for multiple independent customers to operate the modified program via the same program processor, and wherein the participant processor and customer processors are remote from said program processor and remote from the storage device, Eggleston cannot anticipate claim 1. Furthermore, since Eggleston discloses installation and operation at the sponsor's own site, Eggleston teaches away from the invention.

For at least these reasons, Appellant submits the cited reference does not teach or suggest each and every element of claim 1. As such, the rejection of claim 1 under 35 U.S.C. § 102(e) should be removed. Additionally, claims 2-7, 15, 39, and 52 depend from claim 1 and are allowable for at least the same reasons as claim 1.

Claim 24

Claim 24 recites a system for allowing multiple customers to each create an individual, modified motivation or recognition program via a customer processor similar to claim 1. Claim 24 recites:

> a storage device; and
> a program processor …operative …:
>> to electronically provide to each customer access to a browsable catalog of predefined programs stored in the storage device, each program associated with a business challenge; …
>> to allow each customer to electronically **select** one of the presented predefined programs stored in the storage device;
>> to allow each customer to **modify** at least one component of the selected predefined program;
>> to allow each customer to electronically store the modified program in the storage device for access by such customer; …
>> **said modified program executed by the program processor**.
> (Appendix, lines 81-101, Emphasis added).

As explained above with respect to claim 1, without a teaching that each customer can select, modify and operate the modified program via the same program processor, where the participant processor and customer processors are remote from the program processor and remote from the storage device, Eggleston cannot anticipate claim 24.

For at least these reasons, Appellant submits the cited reference does not teach or suggest each and every element of claim 24. As such, the rejection of claim 24 under 35 U.S.C. § 102(e) should be removed. Additionally, claims 53 and 60 depend from claim 24 and are allowable for at least the same reasons as claim 24.

3. Claims 55 and 61

Claim 55 is directed to a method for allowing a first customer and a second customer to create individual modified motivation or recognitions programs by selecting a rules structure of a predefined program where each customer's participants access the modified program stored in a storage device connected to the program processor and executed by the same program processor. Claim 61 is directed to a method for allowing a first customer and a second customer to create individual modified motivation or recognitions programs by selecting a business challenge and a rules structure of a predefined program where each customer's participants access the modified program stored in a storage device connected to the program processor and executed by the program processor.

Appellants submit that claims 55 and 61 are unanticipated by and patentable over Eggleston in that Eggleston fails to disclose or teach multiple programs on the same storage device in combination with "allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, said rules structure defining the manner in which awards are earned by the first and second customer's participants, wherein the first customer's modification is independent of the second customer's modification." (Appendix, claim 55 at lines 137-140, and claim 61 at lines 187-190).

a. Contrary to Examiner's Argument, Eggleston fails to disclose a selectable rules structure in combination with multiple programs on the same storage device and executed by the same program processor.

Claims 55 and 61 recite that the first and second programs are on the same storage device and are executed by the program processor (Appendix, claim 55 at lines 141-144 and 150-159, and claim 61 at lines 191-194 and 200-209). Claims 55 and 61 also recite that each customer selects a rules structure "defining the manner in which awards are earned by the first and second

customer's participants." (Appendix, claim 55 at lines 137-140, and claim 61 at lines 187-190). Once again, by the Examiner's own admission in the final Action Eggleston is deficient. The Examiner notes on pages 20-21 of the final Office action:

> However, column 35, line 4 through column 36 line 19 specifically disclose "the programs for a given incentive program are associated with incentive program rules", and that "any other eligibility rules can be entered by the sponsor in defining the eligibility."

However, Eggleston fails to select a rules structure and, in particular to select rules regarding earned rewards in combination with multiple programs on the same storage device and executed by the same program processor. At best, Eggleston teaches that eligibility rules can be modified. The Examiner also cite column 14, line 14 to column 15, line 15 in this regard on page 20 of the final action. However, this section merely teaches that the sponsor may select prizes, not a rules structure defining the manner in which awards are earned.

b. Eggleston *only* illustrates the modification of eligibility rules.

In contrast to Eggleston, independent claims 55 and 61 recite the combination of multiple programs by various sponsors on the same host system and further recite selecting via their customer processor a rules structure of the selected program. The rules structure defines the manner in which awards are earned by the first and second customer's participants. Further, the first customer's modification is independent of the second customer's modification. Thus, modifying eligibility rules as illustrated Eggleston does not anticipate selecting the rules structure defining how awards are earned, as recited by claims 55 and 61.

Claim 55

Claim 55 recites:

> A method for allowing multiple customers to each create an individual, modified motivation or recognition program having participants, ..., each said program permitting the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants' performance, each said program of a particular customer operating according to preferences selected by the particular customer, said method comprising the steps of:
>
> ...

allowing the first customer and the second customer to each electronically select one of the predefined programs stored in the storage device via their customer processor, wherein the first customer's selection is independent of the second customer's selection;

allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, said rules structure defining the manner in which awards are earned by the first and second customer's participants, wherein the first customer's modification is independent of the second customer's modification….

(Appendix, claim 55 at lines 121-127, and 134-140)

None of the references, taken individually or in combination, discloses or suggests these elements. Without teaching each element, Eggleston cannot anticipate claim 55.

For example, rules structures define the manner in which awards are earned by the participants and the customer can select the rules structure to reflect the individual needs of the customer. (Specification, page 17, lines 9-12). Sales contests may be based on rules structures such as: Hit and Win, Top Performer, Dollar One, Up To and Over, and Incremental Sales. (Specification, page 17, lines 18-21). In the Hit and Win rules structure, an objective is set and communicated to drive each participant and when the objective is reached, the participant earns the award. (Specification, page 17, lines 21-23). Additional rules structures may be accommodated as appropriate to promote other performance such as participant suggestions, safety, productivity, or presenteeism. (Specification, page 18, lines 11-14).

The Eggleston reference fails to teach or suggest "allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program" as recited in claim 55. For at least these reasons, Appellant submits the cited reference does not teach or suggest each and every element of claim 55. As such, the rejection of claim 55 under 35 U.S.C. § 102(e) should be removed.

Claim 61

Claim 61 recites a method for allowing multiple customers to each create an individual, modified motivation or recognition program via a customer processor by selecting a rules structure similar to claim 55. Claim 61 recites:

A method for allowing multiple customers to each create an individual, modified motivation or recognition program having participants, … each said program permitting the participants to access their program via a participant processor and to earn awards through the program in which they participate on the basis of the participants'

performance, each said program of a particular customer operating according to preferences selected by the particular customer, said method comprising the steps of:
…
allowing the first customer and the second customer to each electronically select one of the presented predefined programs stored in the storage device via their customer processor, wherein the first customer's selection is independent of the second customer's selection;
allowing the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, said rules structure defining the manner in which awards are earned by the first and second customer's participants, wherein the first customer's modification is independent of the second customer's modification….
(Appendix, claim 61 at lines 168-174, and 184-190)

As explained above with respect to claim 55, without a teaching of the first customer and the second customer to each electronically select via their customer processor a rules structure of the selected predefined program, Eggleston cannot anticipate claim 61.

For at least these reasons, Appellant submits the cited reference does not teach or suggest each and every element of claim 61. As such, the rejection of claim 61 under 35 U.S.C. § 102(e) should be removed.

B. Rejection under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number: 6,061,660 in view of Hoffman and Rogelberg

Claim 2 depends from claim 1 and is allowable for at least the same reasons as stated above with respect to claim 1.

C. Rejection under 35 U.S.C. 103(a) 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number. 6,061,660 et al. in view of Symons and Jacobs

Claim 39 depends from claim 1 and is allowable for at least the same reasons as stated above with respect to claim 1.

VIII. CONCLUSION

For the reasons stated above, appellant respectfully requests that the Office's rejections be reversed and that claims 1-7, 15, 24, 39, 52, 53, 55, 60 and 61 be allowed.

Respectfully submitted,

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1   **IX. CLAIMS APPENDIX**

2   Claim 1: (previously presented) A method for allowing a first customer to create an individual,

3   modified motivation or recognition first program having first participants, said first program

4   permitting the first participants to access the first program via first participant processors and to

5   earn awards through the first program on the basis of the first participants' performance, said first

6   program of the first customer operating according to preferences selected by the first customer,

7   said method for allowing a second customer to create an individual, modified motivation

8   or recognition second program having second participants, said second program permitting the

9   second participants to access the second program via second participant processors and to earn

10   awards through the second program on the basis of the second participants' performance, said

11   second program of the second customer operating according to preferences selected by the

12   second customer,

13   said method comprising the steps of:

14   allowing the first customer to electronically access via a first customer processor a

15   browsable catalog of predefined programs stored in a storage device connected to a program

16   processor;

17   allowing the first customer to electronically select via the first customer processor a first

18   one of the predefined programs stored in the storage device;

19   allowing the first customer to electronically modify via the first customer processor at

20   least one component of the selected first predefined program;

21   allowing the first customer to electronically store via the first customer processor the

22   modified first program in the storage device for access by the first customer;

23   said method further comprising the steps of:

24   allowing the second customer to electronically access via a second customer processor

25   the browsable catalog of predefined programs stored in the storage device connected to the

26   program processor;

27   allowing the second customer to electronically select via the second customer processor a

28   second one of the predefined programs stored in the storage device;

29   allowing the second customer to electronically modify via the second customer processor

30   at least one component of the selected second predefined program;

31   allowing the second customer to electronically store via the second customer processor

32   the modified second program in the storage device for access by the second customer;

33   said method further comprising the steps of:

34   allowing the first customer to operate the modified first program via the program

35   processor, and allowing the second customer to operate the modified second program via the

36   program processor, wherein the first and second participant processors and the first and second

37   customer processors are remote from said program processor and remote from the storage device

38   connected to the program processor; and

39   providing the first customer's participants with access via the first participant processors

40   to the modified first program stored in the storage device, and providing the second customer's

41   participants with access via the second participant processors to the modified second program

42   stored in the storage device, said modified first and second programs executed by the program

43   processor.

44

45   Claim 2: (original) The method of claim 1, wherein awards are earned by each of a group of

46   participants on the basis of the performance of the group.

47

48   Claim 3: (original) The method of claim 1, wherein the awards are award points, and wherein the

49   providing step comprises the step of electronically providing each customer's participants with

50   access to a browsable catalog of award items which may be obtained by the participant.

51

52   Claim 4: (original) The method of claim 3, further comprising the step of allowing each

53   customer's participants to electronically redeem the award points for the award items.

54

55   Claim 5: (original) The method of claim 3, further comprising the step of allowing each

56   participant to view data indicating the amount of the award points of such participant.

57

58   Claim 6: (original) The method of claim 3, further comprising the step of allowing each

59   participant to view data indicating transactions by such participant.

60

61 Claim 7: (original) The method of claim 1, wherein the step of allowing each customer to operate

62 the modified program further includes the step of allowing a program processor to generate

63 electronic progress reports for the participants in the modified program indicating program

64 information.

65

66 Claim 8-14 (canceled).

67

68 Claim 15: (original) The method of claim 1, wherein the browsable catalog of predefined

69 programs has a plurality of business challenges, and further comprising the step of allowing each

70 customer to select one of the business challenges to reduce the number of predefined programs

71 of the browsable catalog which may be selected.

72

73 Claim 16-23 (canceled).

74

75 Claim 24: (previously presented) A system for allowing multiple customers to each create an

76 individual, modified motivation or recognition program via a customer processor, each said

77 program having participants, each said program permitting the participants to access their

78 program via a participant processor and to earn awards through their program on the basis of the

79 participants' performance, each said program of a particular customer operating according to

80 preferences selected by the particular customer, said system comprising:

81   a storage device; and

82   a program processor connected to the storage device, said storage device storing a

83 program for controlling the program processor, said program processor operative with the

84 program wherein the participant processor and the customer processor are remote from said

85 program processor and remote from the storage device:

86   to electronically provide to each customer access to a browsable catalog of predefined

87 programs stored in the storage device, each program associated with a business challenge;

88   to allow each customer to electronically select a business challenge wherein the

89 predefined programs associated with the business challenge are presented to the customer

90 wherein the predefined programs are designed to promote the selected business challenge;

91   to allow each customer to electronically select one of the presented predefined programs

92   stored in the storage device;

93   to allow each customer to modify at least one component of the selected predefined

94   program;

95   to allow each customer to electronically store the modified program in the storage device

96   for access by such customer;

97   to allow each customer to electronically create or review a proposal and/or invoice

98   relating to the modified program;

99   to allow each customer to operate the modified program; and

100   to provide each customer's participants with access to the modified program stored in the

101   storage device, said modified program executed by the program processor.

102

103   Claim 25 - 38 (canceled).

104

105   Claim 39: (previously presented) The method of claim 1, wherein the allowing each customer to

106   electronically modify includes an award calculator for recommending an award value for one or

107   more participants responsive to an input salary associated with the one or more participants.

108

109   Claim 40 - 51 (canceled).

110

111   Claim 52: (previously presented) The method of claim 1, further comprising providing each

112   customer with a notification via the program processor when the modified program requires

113   operational maintenance.

114

115   Claim 53: (previously presented) The method of claim 24, wherein the customer specifies a

116   promotion code, and wherein one or more terms associated with the promotion code are applied

117   the purchase by the customer.

118

119   Claim 54 (canceled).

120

121 Claim 55: (previously presented) A method for allowing multiple customers to each create an

122 individual, modified motivation or recognition program having participants, said programs of

123 said multiple customers supplied by a program supplier, each said program permitting the

124 participants to access their program via a participant processor and to earn awards through the

125 program in which they participate on the basis of the participants' performance, each said

126 program of a particular customer operating according to preferences selected by the particular

127 customer, said method comprising the steps of:

128   allowing a first customer via a first customer processor and allowing a second customer

129 via a second customer processor to electronically access a browsable catalog of predefined

130 programs stored in a storage device connected to a program processor, said storage device and

131 said program processor being remote from said customer processor and remote from said

132 participant processor, wherein the first customer's access and program is independent of the

133 second customer's access and program;

134   allowing the first customer and the second customer to each electronically select one of

135 the predefined programs stored in the storage device via their customer processor, wherein the

136 first customer's selection is independent of the second customer's selection;

137   allowing the first customer and the second customer to each electronically select via their

138 customer processor a rules structure of the selected predefined program, said rules structure

139 defining the manner in which awards are earned by the first and second customer's participants,

140 wherein the first customer's modification is independent of the second customer's modification;

141   allowing the first customer to electronically store the first modified program in the

142 storage device for access by the first customer via the first customer processor;

143   allowing the second customer to electronically store the second modified program in the

144 storage device for access by the second customer via the second customer processor;

145   allowing the first customer to operate the first modified program via the first customer

146 processor;

147   allowing the second customer to operate the second modified program via the second

148 customer processor, wherein the operation of the first modified program is independent of the

149 second modified program; and

150   providing the first customer's participants with access via their participant processor to

151 the first modified program stored in the storage device, said modified program executed by the

152 program processor, the first customer's participants earning awards based on the rules structures

153 of the first modified program;

154   permitting the second customer's participants with access via their participant processor

155 to the second modified program stored in the storage device, said modified program executed by

156 the program processor, the second customer's participants earning awards based on the rules

157 structures of the second modified program, wherein access by the first customer's participants to

158 the first modified program is independent of access by the second customer's participants to the

159 second modified program.

160

161 Claim 56-59 (canceled).

162

163 Claim 60: (previously presented) The system of claim 24, wherein the business challenges

164 include one or more of the following: increasing sales and revenue, increasing profit, improving

165 market share, attracting and retaining employees, improving employee morale, recognizing

166 service anniversaries, and rewarding project milestones.

167

168 Claim 61: (previously presented) A method for allowing multiple customers to each create an

169 individual, modified motivation or recognition program having participants, said programs of

170 said multiple customers supplied by a program supplier, each said program permitting the

171 participants to access their program via a participant processor and to earn awards through the

172 program in which they participate on the basis of the participants' performance, each said

173 program of a particular customer operating according to preferences selected by the particular

174 customer, said method comprising the steps of:

175   allowing a first customer via a first customer processor and allowing a second customer

176 via a second customer processor to electronically select a business challenge from a plurality of

177 business challenges, each business challenge associated with one or more predefined programs

178 wherein the predefined programs associated with the business challenge are presented to the

179 customer wherein the predefined programs are designed to promote the selected business

180 challenge ,said predefined programs stored in a storage device connected to a program processor,

181 said storage device and said program processor being remote from said customer processor and

182   remote from said participant processor, wherein the first customer's access and program is

183   independent of the second customer's access and program;

184   allowing the first customer and the second customer to each electronically select one of

185   the presented predefined programs stored in the storage device via their customer processor,

186   wherein the first customer's selection is independent of the second customer's selection;

187   allowing the first customer and the second customer to each electronically select via their

188   customer processor a rules structure of the selected predefined program, said rules structure

189   defining the manner in which awards are earned by the first and second customer's participants,

190   wherein the first customer's modification is independent of the second customer's modification;

191   allowing the first customer to electronically store the first modified program in the

192   storage device for access by the first customer via the first customer processor;

193   allowing the second customer to electronically store the second modified program in the

194   storage device for access by the second customer via the second customer processor;

195   allowing the first customer to operate the first modified program via the first customer

196   processor;

197   allowing the second customer to operate the second modified program via the second

198   customer processor, wherein the operation of the first modified program is independent of the

199   second modified program; and

200   providing the first customer's participants with access via their participant processor to

201   the first modified program stored in the storage device, said modified program executed by the

202   program processor, the first customer's participants earning awards based on the rules structures

203   of the first modified program;

204   permitting the second customer's participants with access via their participant processor

205   to the second modified program stored in the storage device, said modified program executed by

206   the program processor, the second customer's participants earning awards based on the rules

207   structures of the second modified program, wherein access by the first customer's participants to

208   the first modified program is independent of access by the second customer's participants to the

209   second modified program.

X.   EVIDENCE APPENDIX

None.

XI.   RELATED PROCEEDINGS APPENDIX

None.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Fitzpatrick et al.   Art Unit 3622
Serial No. 09/840,648
Filed April 23, 2001
Confirmation No. 5040
For METHOD AND SYSTEM FOR ELECTRONICALLY SELECTING, MODIFYING, AND
OPERATING A MOTIVATION OR RECOGNITION PROGRAM
Examiner John W. Van Bramer

March 2, 2009

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

TO THE COMMISSIONER FOR PATENTS,

SIR:

     Applicants submit herewith an Amended Appeal Brief in response to the Notification of

Non-Compliant Appeal Brief, dated January 28, 2009.

     Applicants have amended the Status of Claims section of the second amended Appeal

Brief originally filed October 23, 2008. Insertions have been underlined and deletions have been

bracketed or crossed out. Applicants have also amended the Claims Appendix section to provide

a clean set of claims without any underlining, bracketing or cross outs.

     Appellant submits that the Amended Appeal Brief as submitted herewith, is now in

compliance with 37 CFR 41.37(c)(1)(iii), 37 CFR 41.37(c)(1)(iv), 37 CFR 41.37(c)(1)(vi), 37

CFR 41.37(c)(1)(vii) and 37 CFR 41.37(c)(1)(viii). Therefore, Appellant respectfully requests a

substantive evaluation of the issues presented.

                  Respectfully submitted,

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